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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,378	07/27/2001	Eugen Muller	2821-213	7619
7590	08/29/2003			13
Richard D. Getz McCormick, Paulding & Huber LLP CityPlace II 185 Asylum Street Hartford, CT 06103-3402			EXAMINER	
			TRAN, LEN	
			ART UNIT	PAPER NUMBER
			1725	

DATE MAILED: 08/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/916,378	MULLER ET AL.
	Examiner Len Tran	Art Unit 1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 6/23/03.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 11, 13-15, 19-23 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 14-15 is/are allowed.

6) Claim(s) 11, 13 and 19-23 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 11, 13 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 273 984 A1, in view of Matteson (US '862).

EP '984 discloses an apparatus with welding electrodes for welding cans comprising a welding current connected to the electrodes, a controllable switch arrangement, control device for the switch arrangements, and wherein the *control device*

*is configured to receive from the means a signal indicating the edge of the article to be welded has exited between the electrode rollers and in dependence thereon to deliver to the switch arrangement a signal to discontinue the welding current to the electrode rollers* (page 3, lines 19-23, page 8, last paragraph – page 9, first paragraph, page 4, last paragraph). *In addition, detector 6 is located in alignment with the shafts on rollers 1 and 2. Therefore, at the time the can is detected, the rollers are also deflected, allowing current to be introduced onto the can. Furthermore, the control device is capable to be set wherein the current is passed to the electrode rollers only when the voltage/current is passing through zero.* However, EP '984 lacks the mention of using an A.C current supplying to the electrode. Since, A.C current is conventional in the can welding art, it would have been obvious to assume that EP '984 is using an A.C current.

***Allowable Subject Matter***

4. Claims 14 and 15 are allowed.

The prior arts of record fail to show a disk with plurality of different thickness in a predetermined proportion to the thickness of the articles to be welded.

***Response to Arguments***

5. Applicant's arguments with respect to claims 11-13 and 19-20 have been considered but are moot in view of the new ground(s) of rejection.

\*Art Unit: 1725

*Inquiry*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Len Tran whose telephone number is (703)605-1175. The examiner can normally be reached on M-F, 8:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 703-308-3318. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3602 for regular communications and (703)305-3602 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

Len Tran  
Examiner  
Art Unit 1725

LT  
August 11, 2003



M. ALEXANDRA ELVE  
PRIMARY EXAMINER